IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 16238 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NEELAM BIHARILAL CHHABRIA

Versus

REGIONAL PASSPORT OFFICER

Appearance:

1. Special Civil Application No. 16238 of 2004

MR ZUBIN F BHARDA for Petitioner No. 1

MR MA SHAIKH for Respondent No. 1

RULE SERVED BY DS for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 24/12/2004

ORAL JUDGEMENT

1. In this petition under Article 226 of the Constitution of India, the petitioner has prayed for

appropriate writ, order or direction directing the respondent authority to issue passport mentioning the date of birth of the petitioner as 20/12/1976, which is correct date of birth, as per the certificate issued by the competent authority, issued under Section 12 and 17 of the Registration of Births & Deaths Act, 1969 ["the Act" for short].

2. It is the case of the petitioner that he has approached the respondent authority alongwith necessary application for fresh passport and requested to mention date of birth as 20/12/1976, in view of the fact that there is discrepancy in the date of birth in the School Leaving Certificate as well as Certificate issued by the competent authority. However, the respondent authority refused to issue fresh passport by mentioning date of birth as 20/12/1976 and has directed the petitioner to obtain appropriate order from the Court.

3. On going through the record of the petition, it appears that the correct date of birth of the petitioner as per the certificate issued by the competent authority under Section 12 and 17 of the Act is 20/12/1976 and normally the said date of birth is conclusively 20/12/1976 which under the Act is approved. Under the circumstances, the respondent authority is required to consider the said date of birth which is mentioned in the certificate issued by the competent authority issued under Section 12 and 17 of the Act.

4. Having heard the parties and looking to the facts and circumstances and also the material placed on record, the respondent is directed to look into the case of the petitioner on the basis of the evidence already adduced or which may be adduced by the petitioner in support of her case to mention the date of birth as per the certificate issued by the competent authority issued under Section 12 and 17 of the Act. The respondent shall take appropriate decision in accordance with law after considering the relevant evidence adduced before him and shall pass an appropriate order as expeditiously as possible.

5. With the above observations and directions, the petition is allowed. It is directed that the petitioner shall pay Rs.5,000=00 [Rs. Five Thousand Only] to the respondent authority by way of costs. Rule is made absolute to the aforesaid extent.

Direct service is permitted.

[M.R.SHAH,J.]

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